

## RESOLUTION NO. 11-12

**RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK AUTHORIZING THE EXECUTION AND DELIVERY OF (I) AN AMENDED AND RESTATED INDENTURE AND AN AMENDED AND RESTATED LOAN AGREEMENT TO ADD AN INDEX RATE METHOD OF CALCULATING INTEREST ON THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK REVENUE BONDS (CALIFORNIA ACADEMY OF SCIENCES, SAN FRANCISCO, CALIFORNIA) SERIES 2008A-F, AND (II) A SUPPLEMENT TO A TAX REGULATORY AGREEMENT IN RELATION TO AN ANTICIPATED TAX REISSUANCE WITH RESPECT TO SUCH BONDS, AND OTHER MATTERS RELATING THERETO**

WHEREAS, the California Infrastructure and Economic Development Bank (the "Infrastructure Bank") was established pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (California Government Code Section 63000 and following) (the "Act"), for the purpose of promoting economic development; and

WHEREAS, the Infrastructure Bank is authorized to issue tax-exempt revenue bonds to provide financing for economic development facilities (as defined in the Act) located in the State of California (the "State"); and

WHEREAS, pursuant to an Indenture dated as of July 1, 2008 (the "2008 Indenture"), the Infrastructure Bank issued its Revenue Bonds (California Academy of Sciences, San Francisco, California) Series 2008A, Series 2008B, Series 2008C, Series 2008D, Series 2008E and Series 2008F (collectively, the "2008 Bonds"); and

WHEREAS, pursuant to a Loan Agreement dated as of July 1, 2008 (the "2008 Loan Agreement"), the Infrastructure Bank loaned the proceeds of the Bonds to the California Academy of Sciences (the "Corporation"), a California nonprofit public benefit corporation, for the purpose of refunding certain bonds previously issued by the Infrastructure Bank to finance costs of the demolition, rehabilitation, renovation, construction, replacement, equipping and/or improvements of certain cultural and educational facilities all of which are located in the City of San Francisco and are owned or used by the Corporation; financing a portion of the costs of rehabilitation, renovation, construction, replacement, equipping and/or improvement of such cultural and educational facilities; providing working capital for the Corporation directly related to the costs of those facilities; financing capitalized interest on the 2008 Bonds; and paying costs of issuance in connection therewith; and

WHEREAS, the payment of principal and purchase price of and interest on the 2008 Bonds is currently supported by direct-pay letters of credit issued by the following financial institutions:

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<u>Series</u>	<u>Aggregate Principal Amount</u>	<u>Initial Interest Rate Period</u>	<u>Initial Credit Facility Provider</u>
2008A	\$93,360,000	Daily	U.S. Bank National Association
2008B	60,010,000	Daily	Wells Fargo Bank, National Association
2008C	44,465,000	Daily	The Bank of Nova Scotia
2008D	34,425,000	Daily	City National Bank
2008E	24,595,000	Daily	Northern Trust Company
2008F	24,595,000	Daily	Wells Fargo Bank, National Association

WHEREAS, the Corporation has requested the Infrastructure Bank and Wells Fargo Bank, National Association, as trustee under the 2008 Indenture (the "Trustee"), to amend and restate the 2008 Indenture, in order to include an additional interest rate calculation method for the 2008 Bonds based on a published interest rate index (the "Index Rate"); to have the interest rate on certain series of the 2008 Bonds adjusted to bear interest at an Index Rate and for such series of 2008 Bonds to be held by a qualified institutional buyer as described in Section 144A promulgated pursuant to the Securities Act of 1933, as amended ("Qualified Institutional Buyer"); to eliminate the requirement for a Credit Facility for those 2008 Bonds held by Qualified Institutional Buyers; and;

WHEREAS, the Corporation has requested the Infrastructure Bank and the Trustee to permit one or more Series of the 2008 Bonds to be converted to bear interest at the Index Rate in anticipation of the remarketing of that portion of the Series of 2008 Bonds to Wells Fargo Bank, National Association, U.S. Bank National Association and Union Bank, N.A., all of which are Qualified Institutional Buyers, and other Qualified Institutional Buyers (each individually, a "Purchaser" and collectively, the "Purchasers"); and

WHEREAS, Section 9.01(l) of the 2008 Indenture allows for changes to the 2008 Indenture or 2008 Loan Agreement that would modify, alter, amend or supplement the 2008 Indenture or the 2008 Loan Agreement in any respect, if notice by mail of the proposed supplemental indenture or amendment to the 2008 Loan Agreement is given to holders of the affected 2008 Bonds at least thirty (30) days before the effective date thereof (the "Effective Date") and, on or before such Effective Date, such bondholders have the right to demand purchase of their 2008 Bonds ("Indenture Conditions"); and

WHEREAS, Section 28 of the 2008 Loan Agreement provides that the 2008 Loan Agreement cannot be amended without complying with Section 6.08 of the Indenture which requires consent of the Credit Providers and therefore such consent must be obtained on or prior to the Effective Date for the 2008 Bonds that will continue to be enhanced by a Credit Facility after the Effective Date ("Loan Agreement Conditions"); and

WHEREAS, bond counsel to the Infrastructure Bank has advised that the amendment and restatement of the 2008 Indenture and the 2008 Loan Agreement and the conversion of the Bonds to bear interest at an Index Rate create a substantial change in the terms of the 2008 Bonds, may cause the 2008 Bonds to be treated as a reissuance for tax purposes and will require bond counsel to update the tax analysis on the 2008 Bonds and provide a new tax opinion relating to the 2008 Bonds; and

WHEREAS, the Infrastructure Bank may not issue bonds to assist in financing an economic development facility until the Board of Directors of the Infrastructure Bank (the "Board") makes



certain determinations, including that the party seeking assistance is capable of meeting its obligations incurred under relevant documents, and at the time the 2008 Bonds were authorized the Board found that the Corporation was capable of meeting its obligations under the Loan Agreement; and

WHEREAS, there is now on file with the Secretary of the Board of Directors of the Infrastructure Bank (the "Secretary") the following:

- 1) A proposed form of an amended and restated indenture, to be entered into between the Infrastructure Bank and the Trustee;
- 2) A proposed form of an amended and restated loan agreement, to be entered into between the Infrastructure Bank and the Corporation; and
- 3) A proposed form of a supplement to the tax regulatory agreement entered into by the Infrastructure Bank and the Corporation in relation to the original issuance of the 2008 Bonds; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the California Infrastructure and Economic Development Bank, as follows:

**Section 1.** The above recitals are true and correct.

**Section 2.** The proposed form of amended and restated indenture on file with the Secretary is hereby approved, and the Chair of the Board, the Chair's designee, the Executive Director of the Infrastructure Bank (the "Executive Director") and whomever he or she shall assign (the "Executive Director's assignee"), each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Infrastructure Bank, to execute and deliver an amended and restated indenture to the Trustee in substantially said form, with such changes and insertions therein as may be necessary or appropriate to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of the Infrastructure Bank's counsel, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof (as so executed, the "Amended and Restated Indenture"); provided, however, that the Amended and Restated Indenture shall provide for replacement 2008 Bonds with terms that are consistent with this resolution and shall permit such 2008 Bonds bearing interest at an Index Rate to be remarketed without a credit rating that meets the Infrastructure Bank's current credit rating policy only if such 2008 Bonds are remarketed to Qualified Institutional Buyers, each of which provides a certification confirming its status and willingness to comply with the resale restrictions of the Amended and Restated Indenture, which certifications have been approved by Infrastructure Bank's counsel. The Secretary is authorized to attest to the Infrastructure Bank's execution of the Amended and Restated Indenture.

**Section 3.** The proposed form of the amended and restated loan agreement establishes an additional payment obligation of the Corporation, to pay the purchase price of any 2008 Bond held by a Qualified Institutional Buyer tendered for purchase. Based in particular on the Corporation's willingness to satisfy the requirements imposed by the Purchasers, the Board finds that the Corporation is capable of meeting this additional payment obligation. The proposed form of the amended and restated loan agreement on file with the Secretary is hereby approved, and the Chair of the Board, the Chair's designee, the Executive Director and the Executive Director's assignee, each



acting alone, is hereby authorized and directed, for and on behalf and in the name of the Infrastructure Bank, to execute and deliver an Amended and Restated Loan Agreement in substantially said form, with such changes thereto, and insertions therein as may be necessary or appropriate to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of the Infrastructure Bank's counsel, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof (as so executed, the "Amended and Restated Loan Agreement"). The Secretary is authorized to attest to the Infrastructure Bank's execution of the Amended and Restated Loan Agreement.

**Section 4.** The proposed form of the supplement to the tax regulatory agreement on file with the Secretary is hereby approved, and the Chair of the Board, the Chair's designee, the Executive Director and the Executive Director's assignee, each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Infrastructure Bank, to execute and deliver a supplement to the tax regulatory agreement in substantially said form, with such changes and insertions therein as may be necessary or appropriate to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of the Infrastructure Bank's counsel, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof.

**Section 5.** The Executive Director, the Executive Director's assignee, the Chair of the Board and the Chair's designee, each acting alone, is hereby authorized and directed, for and in the name and on behalf of the Infrastructure Bank, to execute replacement 2008 Bonds (the "Replacement Bonds") in an aggregate principal amount not to exceed the currently outstanding principal amount of 2008 Bonds, and with additional series or subseries designations, all in accordance with the terms of this resolution and the Amended and Restated Indenture and in the forms set forth in the Amended and Restated Indenture. Payment of the principal of and premium, if any, and interest on the 2008 Bonds shall be made solely from payments made by the Corporation and the other sources expressly provided in the Amended and Restated Indenture and the 2008 Bonds shall not be deemed to constitute a debt or liability of the State or, except to the extent provided in the Amended and Restated Indenture, the Infrastructure Bank. The 2008 Bonds shall be subject to redemption and purchase as provided in the Amended and Restated Indenture, including a mandatory tender of bonds after each period in which the Bonds bear interest at an Index Rate. The Bonds shall bear interest at a rate or rates to be determined in accordance with the Amended and Restated Indenture, including the Index Rate. The interest rate borne by the Bonds shall not exceed 25%. The Bonds shall be issued in denominations as provided in the Amended and Restated Indenture which shall, during any period in which the Bonds bear interest at an Index Rate and during which time the Bonds are required to be held by Qualified Institutional Buyers, \$1,000,000 and any integral multiple of \$5,000 in excess thereof. The Replacement Bonds, when so executed, shall be delivered to the Trustee for authentication by the Trustee. The Trustee is hereby requested and directed to authenticate and register the Replacement Bonds so delivered by executing the appropriate certificate of authentication and registration appearing thereon, and to deliver the Replacement Bonds when duly executed, authenticated and registered.

**Section 6.** The Chair of the Board, the Chair's designee, the Executive Director and the Executive Director's assignee, each acting alone, is hereby authorized to execute all certificates and instruments (including without limitation letters of representations, certifications of authority and tax forms required by the Internal Revenue Service in connection with the reissuance of the 2008 Bonds) which they or counsel to the Infrastructure Bank may deem necessary or advisable to effectuate the purpose of this resolution.

**Section 7.** All actions heretofore taken by the officers, employees and agents of the Infrastructure Bank with respect to the actions contemplated by this resolution are hereby approved, confirmed and ratified. The officers of the Infrastructure Bank and their authorized designees, deputies, agents and counsel are hereby authorized and directed, jointly and severally, to perform their duties and to execute and deliver any and all certificates which they or counsel to the Infrastructure Bank, may deem necessary or advisable in order to effectuate the purposes of this resolution.

**Section 8.** The signatures of the Infrastructure Bank to the Amended and Restated Indenture and Amended and Restated Loan Agreement authorized by this resolution shall be deemed effective no earlier than the date upon which the Indenture Conditions and Loan Agreement Conditions as described in this resolution have been met and bond counsel has delivered its approving opinion.

**Section 9.** This resolution shall take effect immediately upon its passage.

**PASSED, APPROVED, AND ADOPTED** at a meeting of the California Infrastructure and Economic Development Bank on June 28, 2011, by the following vote:

AYES: REYES, LUJANO, JIMENEZ, CABALLERO, RICE

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

By Stanton C. Hazelroth  
Stanton C. Hazelroth, Executive Director

Attest:

By Roma Cristia-Plant  
Roma Cristia-Plant,  
Secretary of the Board